**THE HON'BLE Ms. JUSTICE G. ROHINI**

**WRIT PETITION No.13936 OF 2006**

**ORAL ORDER:**

For the year 2005-06, the petitioner was granted a licence under the provisions of the Andhra Pradesh Excise (Grant of Licence of Selling by Bar and Conditions of Licence) Rules, 2005 (for short "the Rules") for running a Bar and Restaurant at premises bearing No.14-1-110, 111 & 112 of M.G. Road, Warangal. For the excise year 2006-07 also, the 1st respondent had granted a prior clearance in favour of the petitioner, and on the basis of the same, the petitioner made an application for grant of licence to commence the business with effect from 1.7.2006. It is stated that the petitioner has complied with all the requirements, as prescribed under Rule 5 of the Rules, and made the application in Form I (B) by paying a sum of Rs.10,000/- by way of a Challan towards application fees, and also enclosing a demand draft for a sum of Rs.8.00 lakhs towards the deposits. However, the said application has not been considered so far and he was orally informed by the respondents that the premises in question is located within the prohibited distance from a school. The petitioner states that he had run the Bar & Restaurant during the previous year in the very same premises, and that the prohibition under Rule 6 of the Rules, does not attract, since the school is located beyond a road divider constructed on the main road. It is stated that the premises in question is not situated opposite to the school as alleged by the respondents, but the pedestrians can reach the school only after crossing the road at the end of the road divider, which is about three feet in width and 2 feet in height. It is also contended that as per explanation to Rule 6 of the Rules, the distance has to be measured from the mid point of the entrance of the Bar premises along with the nearest part by which pedestrians ordinarily reach the mid point of the school gate, and if the distance between the premises in question and the school is measured following the said procedure, statutory prohibition does not

attract.

Having heard the learned counsel for the petitioner and the learned Government Pleader for Prohibition & Excise, appearing for the respondents, I am of the opinion that the question, whether the premises in question is located within the prohibited distance or not, is a matter to be decided after due enquiry, and after taking actual measurements following due procedure prescribed under the statutory rules.

Accordingly, without expressing any opinion as to the claim made by the petitioner that the premises in question is not located within the prohibited distance, the writ petition is disposed of with a direction to the respondents to consider the application of the petitioner for grant of Bar licence in accordance with law, after measuring the distance between the premises in question and the school, strictly in terms of Rule 6 of the Rules. Such exercise shall be completed as expeditiously as possible, preferably within a period of two weeks from the date of receipt of a copy of this order. No costs.

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**(G. ROHINI, J.)**

10th July, 2006.
Kgr

Issue CC by tomorrow.

**THE HON'BLE Ms. JUSTICE G. ROHINI**

**WRIT PETITION No.13936 OF 2006**

10th July, 2006.

Between:
M. Eswaraiah. .. Petitioner.

And
The Commissioner of Prohibition and Excise,
Nampally, Hyderabad and three others. .. Respondents.